Choir and Nave: looking west.

FOUNTAINS ABBEY.

THE rise and marvellous spread of the Cistercian order forms one of the most striking chapters in the religious history of the later middle ages. The influence of the Cistercian reform on the architecture of its time was scarcely less striking, but, so far as our own country is concerned, hardly any attempt has been made to investigate the extent of its influence. The elucidation of the history of individual abbeys will certainly tend to facilitate such investigation, and, although in his present work * Mr. Hope's purpose is chiefly archæological, he deserves the thanks of students of the history of English architecture for what is also a contribution towards the solution of the wider problem.

Although Fountains is rivalled, and perhaps excelled, by other English Cistercian abbeys from the purely architectural point of view, the great extent and completeness of its conventual buildings make it the most important of the examples which have survived. It is natural, therefore, that its history and architecture should have received a considerable amount of attention from modern writers. Mr. J. R. Walbran, through whose influence the ruins were partially cleared some fifty years since, edited for the Surtees Society two volumes of documents bearing on its history. Mr. Gordon M. Hills followed with an architectural history of the abbey buildings. Fountains also occupies a prominent place in Mr. Edmund Sharpe's *Parallels* and has recently been the subject of an excellent monograph by Mr. J. Arthur Reeve, from whose work Mr. Hope has borrowed some of his illustrations. Still, as Mr. Hope

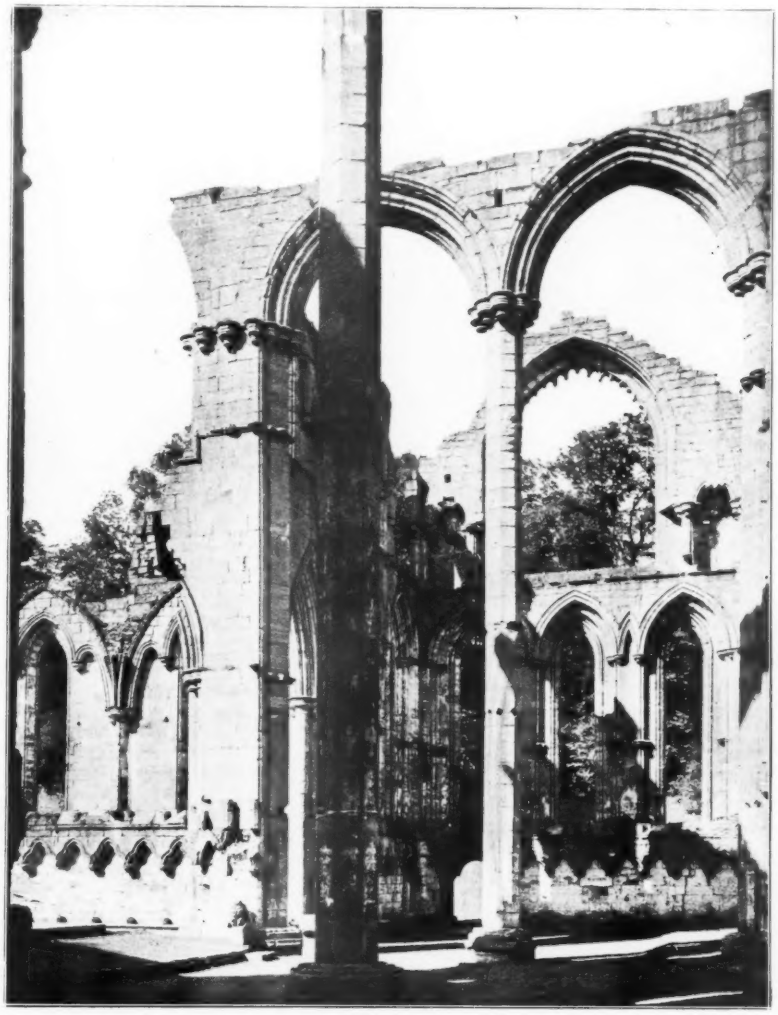
* *Fountains Abbey, Yorkshire.* By W. H. St. John Hope, M.A. Reprinted from *The Yorkshire Archæological Journal*, vol. xv. (1900). 8vo. Pp. 134, with 2 plans and 28 illustrations in the text.

says, "no attempt has hitherto been made to show the true uses of the various buildings by comparison with the existing remains and documentary history of other Cistercian houses." This task has been reserved for Mr. Hope, and his wide knowledge of monastic arrangements has enabled him to give us a description, scientific and exhaustive, which it would hardly be possible to improve upon. The paper is illustrated by a very fine plan of the buildings, to a scale of 24 feet to an inch, chronologically coloured. This has been measured and drawn by Mr. Harold Brakspear, and is a model of what such a plan ought to be. One of the many excellent features of this plan is the light tint which distinguishes the parts of the buildings believed to have been roofed in at the suppression, which not only serves this useful purpose, but also makes the plan much easier to read. The paper is also illustrated by a plan of the precinct, and many smaller drawings in the text.

SOUTH AISLE OF NAVE.

Fountains was founded in 1132 by monks seceding from the Benedictine abbey of St. Mary at York. At first the monks were so poor that it is unlikely that they would be able to undertake any permanent buildings. Probably these were only commenced after Hugh, dean of York, a man of considerable wealth, joined the convent in 1135. In 1147 the friends of William, archbishop of York, set fire to the abbey, but apparently the church itself was not much damaged. From the architectural point of view, it is important to ascertain how far the works had proceeded at the time of this fire. Mr. Hope thinks that the

church was then practically completed; but, however this may be, it is clear that the design of the nave and much of the actual structure must be dated before 1147. Before 1135 St. Bernard had sent Geoffrey, a monk of Clairvaux, to teach the brethren the new Rule, and his influence can easily be recognised in certain architectural peculiarities in the church. Its plan consisted of an aisleless presbytery of three bays, with a square east end; transepts, with three square-ended chapels on the east side of each arm; and a nave and aisles of eleven bays, with a western porch. This type of plan was followed more generally than any other in the earlier Cistercian churches, and Dehio and von Bezold suggest, with much probability, that it may have been copied from the Clairvaux of St. Bernard's time.* It is merely a simplified version of a usual Burgundian plan, and it is quite a mistake to imagine that the square eastern termination of Cistercian churches is due to the influence of English tradition. A peculiar feature of the plan of Fountains is the greater projection given to the chapels of the transept which immediately adjoin the presbytery on either side. To the influence of Geoffrey of Clairvaux we may attribute the pointed barrel-vaults † which cover the chapels of the transepts, and



EASTERN TRANSEPT

* *Die Kirchliche Baukunst des Abendlandes*, i. 527.

† The barrel-vaults are certainly not an introduction from Normandy, as Mr. E. W. Hudson thinks (R.I.B.A JOURNAL, Vol. VIII. 360. *Cf. ibid.* Vol. VI. 290).

the system of vaulting adopted in the aisles of the nave—barrel-vaults perpendicular to the axis of the nave—a system associated in the districts of its origin with a barrel-vault over the nave itself, although the nave of Fountains was designed for a wood ceiling. It is likely enough that the early adoption of the pointed arch in the nave arcades was due to the same influence. Other features which are characteristic of Cistercian churches, on the Continent as in England, are the absence of a triforium, and the circular windows to be seen in the gable of the south transept and in the ends of the transept chapels. But for the rest, what remains of the first church of Fountains is purely Anglo-Norman in its design. The piers of the nave arcade are but slightly modified from the English cylindrical pattern, and the nave shares with other Norman churches in England the characteristic of great length.*

The demand for an increased number of altars soon led the Cistercians to abandon the aisleless presbytery of the earlier churches. The plan of Pontigny illustrates the type of extension which was favoured abroad—an apsidal presbytery, surrounded by an ambulatory and a ring of chapels, both the ambulatory and chapels being covered by a single lean-to roof. In England the Cistercians generally preferred to retain the square east end when they built their presbyteries with aisles, as at Jervaulx. The eastern aisle of Byland and Dore† leads the way to the great eastern transept of the Fountains extension, commenced by Abbot John of York early in the thirteenth century. It is most unfortunate that so much of this work has been destroyed. What remains shows a design of great beauty and dignity, characterised by the extreme simplicity due to Cistercian asceticism, which goes far to place Yorkshire work at the head of all English architecture in the first half of the thirteenth century.

Mr. Hope gives an admirable explanation of the internal arrangements of the church, which will be of great value in investigating the plans of other Cistercian churches. In his account of the conventual buildings, he works out the plan from the directions laid down in the *Consuetudines* for the Sunday procession, and he makes excellent use of a description of the arrangements at Clairvaux in 1517. Mr. Hope's conclusions must be studied in his own words, and the reader will then appreciate the progress which has been made in the investigation of Cistercian plans since the late Edmund Sharpe published his *Architecture of the Cistercians* in 1874. One of the most interesting points which Mr. Hope clears up is the real position of the kitchen. He shows that the room with the large fireplaces on the east side of the frater was the warming-house, and not the kitchen as Mr. Sharpe supposed. The kitchen was on the west side of the frater, and, until Mr. Hope explained the peculiar arrangement of its fireplaces back to back in the centre of the room, its real use had not been recognised. The explanation of the plan of the cellarer's building, which Mr. Sharpe called the *Domus Conversorum*, will probably be new to most readers.

Mr. Hope's work has appeared most opportunely at a time when the ruins of other Cistercian abbeys are being excavated, and it will afford invaluable help to those who are engaged in such investigations. Mr. Hope must be congratulated on having added an important chapter to English architectural history.‡

JOHN BILSON.

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* Clairvaux, like Fountains, had a nave of eleven bays; the nave of Pontigny has only seven bays, Kirkstall eight, Rievaulx nine, Furness and Jervaulx ten, and Byland twelve.

† This type of plan was considerably developed in some Cistercian churches in Germany.

‡ As there is often considerable difficulty in obtaining copies of papers published by archæological societies, it may be useful to add that Mr. Hope's paper is issued as a separate volume by the Yorkshire Archæological Society, 10 Park Street, Leeds.

RIGHTS AS TO SEWAGE.—I.

By Algernon Barker, Barrister-at-law (Newcastle-on-Tyne).

LAST year (*a*) * we considered how a watchful legislature protects the public against the "houses in between." How it sets these back, curbs their encroachments on public land, guards the streets from tunnels and over-archings, and forbids holes and heaps and waterfalls where the citizens walk.

Now we come to a different subject—namely, the grandmotherly care with which the State defends the inmates of houses from any remissness on the part of the building owner. In the previous lecture, as in this, the questions considered may be usefully taken into account before the architect puts pencil to paper, and before he has decided where he shall put his new house or whether he will go to the length of ordering some old house to be pulled down to the ground floor. In the present, as in the former lecture, I do not deal with local Acts or by-laws, or with the adoptive parts of the Public Health Act Amendment Act of 1890. It is obviously necessary to consider the groundwork of what is (except in London) universal over England before considering local modifications. One does not learn a dialect until one has mastered the language; but the catholic foundation safely laid, I hope carefully to consider the local eccentricities, for these form the bulk of the rules as to building. They meet the architect at every turn of his operations, and may largely modify the rights and duties which we are about to consider.

The first question I deal with is sewage. By "sewage" I mean to include all foul water, in accordance with the Imperial Dictionary; for it will be seen from Kinson's case, and from the Rivers Pollution Prevention Act, that the law makes no difference as to quality of sewage. (*b*)

In choosing your site you therefore look round for some means of disposing of your house drainage, and consider also what effect your proposed position will have upon your liability to obey various statutory requirements as to sewage; in a word, what rights will you have, and what duties? You will of course feel and be so bound up with the interests of the building owner that it is not improper, as it certainly is most convenient, to describe such rights and duties as yours. (*c*) I consider your rights first.

Rights.—It does not matter whether you are in an urban or rural district, and it does not matter what kind of building you are putting up. You can drain your Gothic cowhouse, or your Japanese pigstye, or the Tudor hennery, as freely as if it were a dwelling-house or warehouse. (*d*)

First, as to the receptacles which do not belong to any local authority (by "local authority" I mean a District Council, rural or urban, or a Borough or City Council):—

Sea and Tidal River.—There is the sea with its ever-increasing hoards of salt and its purifying weeds, and there are the tidal rivers up to the top of the tide. You can pour your sewage into these without fear of the Rivers Pollution Prevention Act of 1876, except so far as the Local Government Board has fenced off some portion as "taboo."

Sewage Watercourse.—Again, if you can prove that before 15th August 1876 the watercourse into which you drain was mainly used as a sewer, and that it empties directly into such sea or tidal river, the same Act cannot touch you (though you may be otherwise liable). As to this watercourse, however, both the facts and the law will cause considerable difficulty—the facts, because you are unlikely to know the condition of the watercourse twenty-five years ago; and the law, because cases on the subject are remarkably scarce. I only know of one, a Portobello case, which, however, hardly informs us as to the exact amount of pollution (*e*) necessary in order to deprive the Rivers Pollution Prevention Act of its sting. Such a watercourse will probably bring you under section 21 of the Public Health Act as being a "sewer." The Cam, below Cambridge, is so foul that it is stated the rowing men objected to the Town Council diverting the sewage from it because there would be nothing to row in. I cannot say if under the Act you could pour your sewage into the Cam; probably not, but everyone does. Even where you have proved that the watercourse was so foul twenty-five years ago, you must still show grant or prescription by twenty years' user to foul it, or you cannot come in under the wing of the Rivers Pollution Act, for it does not free you from liability for private nuisance. I may also observe that even if you had prescriptive rights, you might still be liable for public nuisance. I fear, however, that the Rivers Pollution Prevention Act is practically a dead letter.

Rural Field Ditch or Cesspool.—Then, again, you might in rural districts drain into your field ditch (*f*) or cesspool, subject, in the case of a

* See notes at end of Lecture. This lecture was delivered before the Northern Architectural Association in Newcastle on the 19th February last, and has been considerably revised and supplemented by the author for the purpose of the present publication.

"house" (*g*), to being liable to "subsequent alteration," as I call it, by the rural authority, if the drain was "insufficient," under section 23. (Urban authorities also have these powers of subsequent alteration.) I deal with all these matters under the head of "duties."

Urban Cesspool.—Again, you can in an urban district drain into a cesspool, subject to this—that if the drain of your house (*g*) is insufficient, or if you are newly building or totally rebuilding a house, and in either case if at the same time the site is within 100 feet of a sewer which the local authority of that district are entitled to use, you will be deprived of this right, as we shall see when we come to consider your "duties."

Whithersoever you drain you must see that the smell of your sewage does not create a nuisance, whether private or public. (*f*) Nor can you commit a trespass. If the land or road of a private individual or of the Crown intervenes between you and the sea, tidal river, field, or the like, you must come to terms with the owners. In the case of the property of a private individual or County Council intervening, you might be able to get compulsory access with the help of the local authority by making your drain a "sewer" and vesting it in the local authority, as suggested later, but you cannot thus treat the Crown. The authority, however, cannot dump a cesspool on another man's land, unless they buy the property.

Home Sewers.—We now come to your rights to connect your "drains" with the "sewers" of your local authority, urban or rural. These I may call "home sewers." Section 21 of the Public Health Act of 1875 reads thus: "The owner or occupier of any premises within the district of a local authority shall be entitled to cause his drains to empty into the sewers of that authority," &c, subject to certain conditions. I do not trouble you as architects with the meaning of "owner or occupier," but we shall have to decide what "drains" and "sewers" are, and what sewers vest in the local authority, and, after this, under what conditions you can exercise this right of connecting your drains so as to empty into their sewers.

"Drains," What are?—First, you ask whether your conduits are "drains" in a statutory sense. The tests to apply are—

Whence does the sewage come?

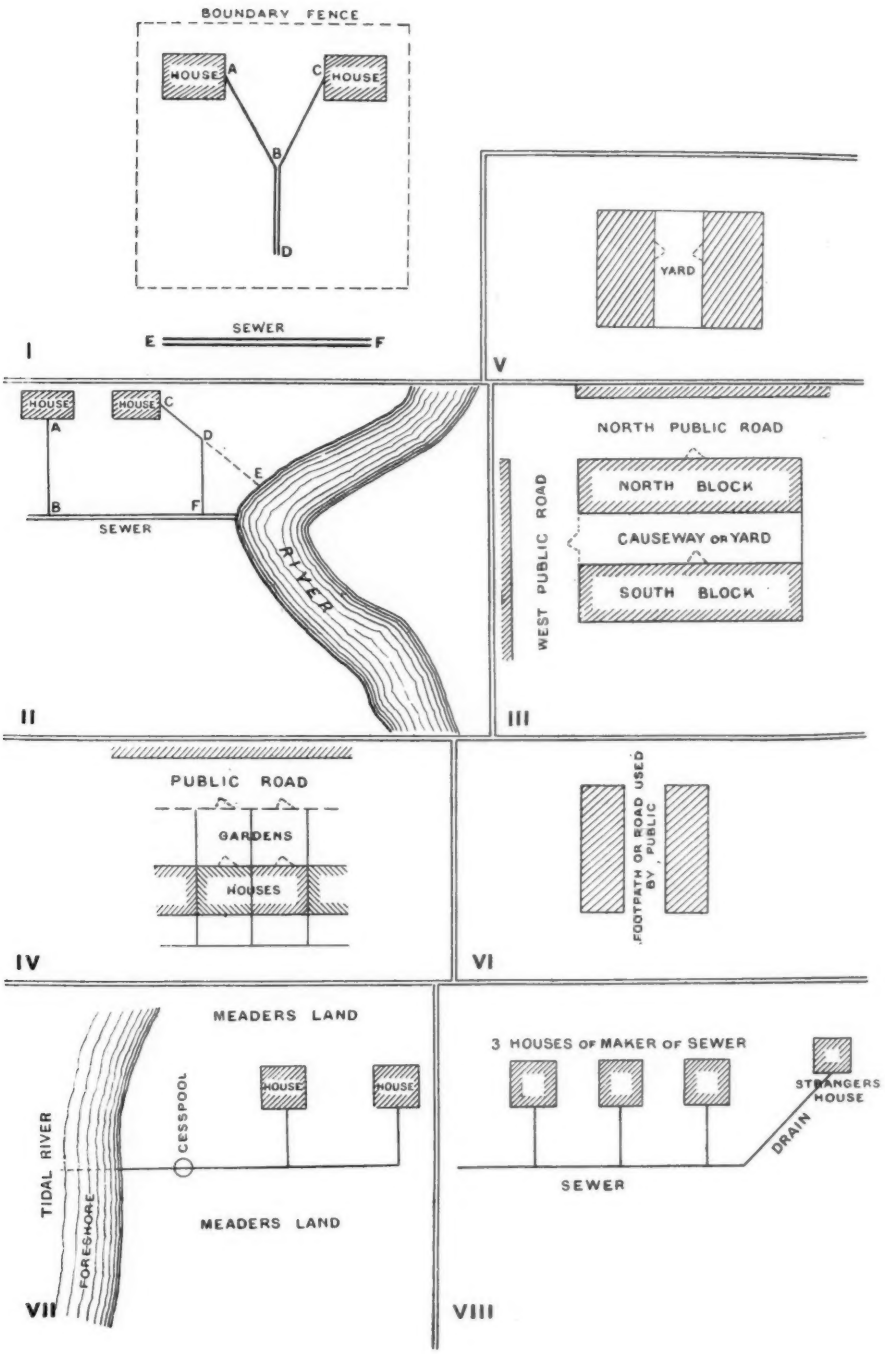
Whither does it or is it intended to go?

As to the origin, we are dealing with drains for sewage, so that my remarks, of course, need not be considered unless you are putting up a dwelling-house, cowhouse, hennery, dog-kennel, pigstye, or some premises from which sewage would flow. (*d*) Sometimes, however, there will be a group of these buildings, as we see in diagram 1, having a yard or garden in common, and fenced off from the vulgar herd so as to form a snug little clique to themselves. In such a case it may be hard to say at once whether their common drain-pipe or channel is a sewer or a drain. I enter into this question very fully hereafter, but it may here be stated that if the group form one set of premises the conduit BD will be a drain, but otherwise it will usually be a sewer. If BD is a drain, you will have to go hat in hand to the local authority and listen to their orders, and sometimes even require their sanction, if you would connect it with their sewer EF; but you cannot pass that hat round among the ratepayers—you must bear the expense. If BD is kind enough to be a sewer, then you have already connected AB and CB with a sewer, viz. BD, for you built them all at the same time; (*u*) and if the local authority refuse to connect the one sewer with the other—namely, BD with EF—then it is not a question of hat in hand, but of foolscap for a petition to the Local Government Board to force the authority to connect the two sewers, or otherwise to afford you sufficient sanitary facilities, and (unless there is in operation the adoptive Public Health Act Amendment Act, to which in this lecture we shut our eyes) you will not have to bear the expense of thus connecting the sewers, save in certain cases. The local authorities will also have the pleasant duty of cleaning and mending but not reconstructing (*s*) BD. It may be well, therefore, to sever your premises—that is to say, so to arrange them that there shall be two and not one—and to have the sewers joined for you, rather than to enjoy the rights we are now discussing of connecting your drains with a sewer. When you have obtained a sewer, you can unsever the premises and unite them in one, for "Once a sewer, always a sewer." (*t*)

Or it may, *e.g.* if you wish to keep the Council's workmen out of your grounds, be desirable not to make BD into a sewer, in which case you will not do so. I deal later with the method of making a conduit into a sewer by severing your premises, and by other methods, when I come to discuss your means of forcing access across the intervening property of unwilling neighbours. I also in another place treat of petitions to the Local Government Board, and the ritual with which such petitions should be accompanied.

The second and last test is "whither away" or where intended to go.

A problem which I wish to discuss under the above head is whether certain conduits (which we postulate to be not sewers, so do not at present trouble about that question) can be called even "drains." (*h*) Suppose the drain empties into a hole in the ground or into a field and percolates into the soil? Well, I think that (*pace* the case of *Croft* v. *Rickmansworth*, which was decided on different language in a different statute) the conduit will be a drain (unless, of course, it is a sewer). Suppose it empties nowhere, because it has nothing to empty, being dry, like the drain AB from the incomplete house in diagram 2? I think, after considering the Beckenham case,


BOUNDARY FENCE
HOUSE
A
C
HOUSE
B
D
SEWER
E
F
I
YARD
V
HOUSE
HOUSE
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D
E
B
F
SEWER
RIVER
II
NORTH PUBLIC ROAD
NORTH BLOCK
CAUSEWAY or YARD
SOUTH BLOCK
WEST PUBLIC ROAD
III
PUBLIC ROAD
GARDENS
HOUSES
IV
FOOTPATH OR ROAD USED BY PUBLIC
VI
MEADERS LAND
TIDAL RIVER
FORESHORE
CESSPOOL
HOUSE
HOUSE
MEADERS LAND
VII
3 HOUSES OF MAKER OF SEWER
STRANGERS HOUSE
DRAIN
SEWER
VIII

that your intended drain is a drain. Otherwise, one might as well say, "You shall not go into the water until you can swim." An absurdity similar, but not so glaring, was dwelt on in the case of *Jones* v. *Conway*, decided in 1893. Next suppose that, instead of being virgin, your goddess Cloaca—or shall I call her "Cloacilla"?—has already been and is wedded to Neptune or the River God; in other words, that your premises have been draining into sea or river, like the conduit CE in diagram 2. Lumley holds that the conduit would not be a "drain." (We postulate that, only coming from one set of premises, it is not a "sewer.") I think, however, when you had decided—perhaps because the authority were deodorising their sewage or for other reasons—to divorce Cloacilla from Neptune and to wed her to the authority's sewer BF, that on the above principle you would, by proposing to change the destination from sea or river to sewer, be held to be "making" the drain for the purpose of "communicating solely with a sewer . . ." Otherwise, if you are forbidden to connect a conduit, because it had committed the error of draining into a river or sea or into a field, you will either be forced by the Act to do so still—which would be curious conduct on the part of an Act intended to discourage pollution of rivers and not to encourage pollution of the sea—or else you would be forced to lay new drains, in many cases parallel with your old drains, in order to come under this Act. This would be ridiculous, though good for the tile trade. A similar anomaly is commented upon in *Ferrand* v. *Hallas* (*L. R.* at p. 140). Therefore I think that the change of your intentions changes the name of the conduit into "drain." Again, one may argue, this sea and river fouler which intends to turn over a new leaf must have new work, DF, added to it at its sewerward end in order to reach the desired sewer. This new work is, as we have seen, clearly a "drain," and can empty into the sewer; and of course you can empty your conduit, even if it is not a "drain," into this new and undoubted drain as legally as you can empty the teapot or the bath, while this new drain can, under section 21, empty into the sewer. So much for the article to be emptied; now we must search for the sewer into which it is to pour its contents.

Map of Sewers.—You need not dig and probe the earth and take up pipes to see if the name of the local authority is embossed upon them, or if they are labelled "sewer." The first and most obvious course open to you is to go to the office of the local authority and ask to see their map of sewers. All local authorities, whether urban or rural, must make such a map and show it "to all persons interested." (*i*) But the map of sewers is only made by human hands, and may be inaccurate in designating as "sewer" that which is no sewer, or in not calling "sewer" that which has a good claim to such a title. For this and for other reasons which will appear later, I propose to investigate the meaning of the word "sewer" as contained in the Act; after this I shall discuss the question as to what sewers vest in the local authority.

"Sewer."—According to the definition given in the Public Health Act the word sewer includes "sewers and drains of every description, except drains to which the word 'drains' interpreted as aforesaid applies, and except drains vested in or under the control of any authority having the management of roads and not being a local authority under this Act." That is to say, the Act excludes "drains" as defined above, and also any County Council drains of main roads, for practically all other public roads are vested in the local authorities. All that is left comes under the denomination of "sewer." When you have considered the meanings of "sewer" which I now proceed to classify, you will be in a still better position to understand the meaning of "drains."

Sewers fall into two classes—namely, water sewers and sanitary sewers, the latter being called "sanitary" on account of the repulsiveness of their contents.

Water Sewer.—A water sewer may be open or covered in, and is a drain used for the surface drainage from roads and streets, or from or to private fields. The curtilage question is of no importance in deciding what is a water sewer. Instances may be found in a supposititious case in *Ferrand* v. *Hallas Land Co.*; in *Russell* v. *Knight*, where the water sewer was a drain from a quarry; in *Durrant* v. *Branksome*, where it was a surface road drain. *Croysdale* v. *Sunbury* affords an example of a private irrigation sewer, and in the *Kinson Pottery Co.* v. *Poole* we have a surface road sewer. Lastly, in *Sykes* v. *Sowerby* you will find an instance of a water sewer from a road to protect the quarry beneath from floods. These cases were decided in 1893, 1894, 1897, 1898, 1899, and 1900 respectively. The case of *Sykes* v. *Sowerby* is worthy of special attention. Connection cannot be made with these, for they are, as we learn from Sykes' case, beyond the scope of our sewage Magna Charta, the sanitary part of the Public Health Act. If the water sewers are the local authority's road drains, then they fall, I grant you, under section 16 (see *Durrant* v. *Branksome*, 1897), the section which allows the local authority compulsory access for their sewers across roads or land—for draining of roads is, after all, a sanitary matter, and the drainage of roads is very often genuine "sewage," but you cannot turn your sewage into these road-sewers under our section (the 21st), as we see from Kinson's case.

Sanitary Sewer.—We now come to sanitary sewers, sewers for sewage; that is, for dish-washings, soapy water, &c., generally, for the law

makes no distinction. (*b*) I propose to apply eight tests to a conduit in order to see if it is a sewer:—

1. Its source, or whence it comes.
2. Its destination, or whither it goes.
3. Its form and materials.
4. Its history and purpose—that is, whether made by man; and if so, by whom, and also why it was made. Its proportion of foulness also may be considered under this head.
5. Its antiquity, or how long it has been fouled.
6. Its locality, or on whose lands it is.
7. Its legality—that is, whether the local authority or the original owner sanctioned its becoming a sewer. (*r*)
8. Its originators, or who made it.

As to its source, the question will be whether or not it drains more than "one building or premises within the same curtilage." If it does this, and provided it passes other tests, it is a sewer.

What do we mean by "premises within the same curtilage"? The word "curtilage" is ambiguous, meaning either a ring fence or a yard or outbuilding.

We shall find that there are four considerations to be taken into account in deciding whether premises are one or more than one.

1. An actual ring fence round the premises, or, in other words, the fact that the premises are not divided by roads or property belonging to others or used by the public. (See diagrams 1, 3, 4, and 5.) This is an element of union, but will not necessarily unite two buildings.

2. Private communication between parts of the premises—that is to say, the possibility of going from one to the other without touching roads or property belonging to others or used by the public. This is not the same as the ring fence; it is more than that, as diagrams 4 and 5 show. In No. 4 there is a ring fence, but communication is only by a road used by the public; in No. 5 there is not only a ring fence, but private or internal communication across the yard. Private communication is, of course, a very powerful uniting factor. (Such communication is seen in diagrams 1 and 5, but not in diagrams 3 or 4. Diagram 6 shows the absence of both ring fence and private communication.)

3. The necessity of one part of the premises to the other or others, which causes the law to overlook and ignore the division between.

4. The fact that the occupier of one part of the premises is the occupier of the other has a uniting effect. A letting out of part of the premises has sometimes a severing effect.

Now to consider the cases. In *Doe* v. *Collins*, which was a case on the construction of a will, a curtilage is described as a ring fence, and the Court in that case decided that a coal-hole *on the other side* of the public street from a house which had no coal-cellar must on account of its necessity to the house be held to be within the same curtilage, and to be therefore part of such house. Perhaps *à fortiori* such a coal-hole would have been part of the house for the purposes of the Public Health Act and for its definition of the word "sewer." Another definition of a curtilage is a place for putting wood, coal, or timber. In *East* a curtilage is defined for burglary purposes as including dwelling-houses, out-houses such as barns, stables, cow-houses, dairy-houses, and the like, *though not under one roof*, if within the same common fence; and Justice Cockburn in a burglary case adds warehouses to this list. I must, however, remember that I am speaking to house-builders, and not to house-breakers. There are cases as to whether houses are one or many for the purposes of a surveyor's fee; but that, though intensely interesting to surveyors, is quite irrelevant to the subject in hand. The cases which throw light on that subject would only throw shadow on this.

We next come to four cases under the Lands Clauses Act by which, on the principle that you cannot insist on buying half a pair of boots at half price, it is enacted that railway companies and others cannot compulsorily buy up part of a house. In Marson's case the public-house door could not be approached without driving over the open space in front of it. The open space was treated as part of the public-house, so that the company could not buy one without the other. In Lord Grosvenor's case a block of almshouses stood next to the site of an intended block and gave into a garden, houses and garden being fenced off from the public road. The site and the garden were treated as being within the same curtilage as, and therefore one with, the completed almshouses, because the one was necessary to their finish and the other to their enjoyment. The third case was that of St. Thomas's Hospital, which goes farther than the last, for the garden was decided to be part of the hospital, though bought long after the hospital was built. On this occasion the Judge stated that he would not have held a garden to be part of a house if it were *let out to tenants* or if a *street divided* house from garden. The last of the Lands Clauses cases is that of Steel. Mr. Steel was a man of position, with a nice house having at the back stables well filled with horses. He had a field, 750 yards away from his house, on the other side of a public road. In that field was a cottage where his grooms slept, with doubtless a pleasant sense of freedom. The field grew hay to feed the horses at the house over the way. For all that, the cottage was not considered as part of his house, though his servants slept there. As for the field, the hay was held to be accessory rather to Mr. Steel's personal comfort (through the medium of his horses) than to his house.

Then there is a case under the law as to gun-

licences, which law allows you to shoot in your own backyard or curtilage without a licence. In this case Mr. Asquith proceeded against Mr. Griffin for enjoying a little sport in an orchard behind the house without having paid his scot to the Government. The orchard adjoined the house and yard, and communicated with it by a small wicket-gate, but in order to cart the apples to the house he would have to go through a neighbour's land. The orchard was held to be no part of the house and not in the same curtilage. So Mr. Griffin had to pay dearly for his "bag" of sparrows.

We come, lastly, to two well-contrasted cases, both decided in 1895, and both dealing with this very subject of sewers, and therefore very much in point. One is a Shoreditch case, in which Pilbrow was plaintiff, and the other is the St. Martin's case. In the Shoreditch case the blocks of buildings, flats, or "apartments," as we see from the third diagram, were parallel, and between them was a yard or causeway, having a wall at one end and a railing and gate at the other. The north block faced and its one door opened into the public road to the north of it, but did not open into the causeway. The south block faced and its one door opened also northwards, but did open into the causeway. The causeway opened by the gateway in the railings into the west road. So that, if Mrs. Prig of the south block wanted to go and have tea with Mrs. Gamp of the north block, she would have to go out of the gate into the west public road and round by the north public road, and thus into Mrs. Gamp's drawing-room. If, however, it was only a little bit of scandal they wanted, Mrs. Gamp's windows looked out on to the yard, and she could empty her dust there while she talked, for the buildings had a common dustbin. Not "one flag," but "one ashpit"—that was what united north and south. Lord Esher, as usual, took a common-sense view of the matter. The two blocks were surrounded by a ring fence. The purpose of the builder was, said he, to be considered. When the sewage question was discussed, it was of little use to pore over musty old tomes on conveyancing. Justice Lopes said that the common ashpit formed the bond of union. If, thought the latter, a common cowhouse is, as authority states, a bond of union between two houses because it is a convenience to their inhabitants in sheltering animals that they do want, then an ashpit used in common by two blocks of buildings is a link between them because it receives ashes that the inmates do not want. This, in my own language, is what I may call the rule of the common bond. Lord Esher thought the ashpit unnecessary for the decision. He also seems to have considered that if the causeway had been a thoroughfare this would have made the blocks two distinct buildings. There is a difference between the two cases of my only being able to get from my house to another by passing over a public road, and of my house being divided from another by a public road, as you will find when calling next door on a muddy day to grumble about the piano through the wall. (Contrast diagrams 4 and 5.) Again, Lord Esher said that if the yard had been a great square you could hardly have said that all the buildings round it were in the same curtilage; for instance, that all the houses round the Leazes were only one house. That would be too much like the tail wagging the dog. (I do not repeat his words verbatim.) Note that though different tenants occupied these fashionable "apartments" they were one; but, as Lord Esher stated, it would have been different had they been let on long leases, or even perhaps at a tenancy of over a week, or as separate houses. In other words, when Mrs. Dinnis and Mrs. O'Rafferty occupy different rooms in one building merely by the week, the house is divided only in a parliamentary or military sense. According to Lord Esher, the law seems to lean against holding premises to be two rather than one. It thinks of the poor ratepayer. Note here also that (Rigby dissenting) it was held that one curtilage or yard could join two buildings.

The other case (St. Martin's) was with regard to Lowther Arcade, where we buy toys and dolls. It is, as you know, a very inferior imitation of our own noble arcade in Pilgrim Street,* through whose solemn vaults a dim religious light is shed on legal literature, nautical eloquence, and linoleum. It differed, however, from our building in that there was no general right of way; the public had merely leave to pass through it on week-days before 9 P.M. In spite of this it was held that each of the buildings giving on to the arcade was a different house. These two cases will prove very useful in deciding *à fortiori* as to the oneness or twoness of many buildings within your ken. The common drains in the first case were not "sewers;" the common drains in the second were "sewers."

I may now sum up the information which we have gathered from all these cases. We find there four factors which may tend to unite, and their opposites which may tend to sever, a set of premises. The uniting and the severing factors must be duly weighed and compared in order to ascertain whether premises are two or one.

1. A "ring fence" round premises will tend to unite them. Whether this consists of a wall, a fence, a ditch, or a man with a gun matters not. If the public is actually prevented by day as well as by night (see St. Martin's, the Arcade case) from using a way through the premises, they will be considered as enclosed by a ring fence (see diagrams 1, 3, 4, and 5).

The opposite to a ring fence—viz. a way through

* Newcastle-on-Tyne.

the premises—whether it is rightfully or wrongfully used by the public, constitutes a powerful severing factor. If the public user of the way depends not on mere acquiescence, but is justified by legal right, this dividing factor will, I think, be all the stronger. So, again, a bridle-way, and still more a carriage-way, might sever where a foot-way might not. A foot-way, however, might, as in the Arcade case, be sufficient to divide.

2. "Private communication" from one part of premises to another (as shown in diagram 5) tends more strongly than a "ring fence" to unite them. Indeed, it presupposes a ring fence, for to say that there is a ring fence is only another way of stating that no alien or public property intersects the premises. A private carriage-way will unify more certainly than a private footway (*Asquith* v. *Griffin*); but a rarely used passage under the roofs of two semi-detached villas did not, though it allowed communication between them, make them one house. (*j*)

The absence of private communication is, of course, a severing factor, though not a very strong one if a ring fence remains. (*k*) This would be the case if, in order to pop in next door for a quiet rubber, Mrs. Jones, having tapped on the wall to ask if her semi-detached neighbour is at home, has to put on her goloshes and brave the mud either of a roadway or footway which belongs to someone else, or worse still, of a public road. See diagram 4, and compare Harvie's and the Shoreditch cases. Diagram 6 shows absence of both "ring fence" and "private communication."

3. "The necessity" of one part to another may unite in spite of the presence of severing factors. Thus, the Court in *Doe* v. *Collins* held the coal-hole to be one with the house, although a road divided them. Where uniting factors 1 and 2 are in operation *à fortiori* one part of the premises will be held united to the other, *e.g.* the gardens to the almshouses and hospital respectively in the Grosvenor and St. Thomas' cases, or the fore-court to the public-house in Marson's case. (In many of our pit villages the ashpits, &c., are across the road.) The necessity must be a necessity to the house, and not to the person, like Mr. Steel's hay. Horses are a luxury, but I think a kitchen-garden across the road would be part of the house.

Further, this necessary part may do more, and itself act as a "common bond" between two other parts of the premises. Thus, in the Shoreditch case the yard and the ash-tub united the two blocks of buildings, even though there was no "private communication" between them, but would not have done so had the intervening yard been a public thoroughfare. I think, however, that in order to make anything a "common bond" between two others some other of the elements of union beside "necessity" should be present.

On the other hand, if, whether necessary or not, his adjunct be disproportionately large when compared with the premises to which it is to be united or which it is to unite, we shall have a severing factor, viz. "disproportionate size." Thus, the size of the orchard in Asquith's case prevailed against the "ring fence," the limited "private communication," and the identity of the occupier of orchard and house. (*m*)

4. The fact that both parts are in the occupation of one person will be a uniting factor. Sometimes, though the inhabitants are various, two or more blocks of buildings or land will be held to be in the occupation of one and the same person or body. This will be the case in almshouses, (*n*) colleges (*n*)—(see the Grosvenor case, 26 *L. J.* Ch. 735, bottom of column 2), barracks, and also where rooms are assigned and reassigned at the will of the superiors, or are let only for periods of a week or less, as in the Shoreditch case. This uniting factor has its degree of potency. Thus, if I and my family live on both sides of a street, my houses might be one, whereas if I turned the houses into a lodging-house and "annexe" they might not. If the occupier (*o*) of one house allows his servant to use the other in lieu of part of his wages, and if also the servant could not perform his duties if he resided elsewhere, the master would be held to occupy both houses. Thus, where the house-laundry or the stable, or other service-plant, as I may call it, is attached to the servant's house, the master and not the servant is the occupier; but an ordinary cottage of his master's occupied by the servant, whether or not he paid rent, would not be held to be in the occupation of the master.

Separate occupation is, of course, a severing factor, but only occupation for a term exceeding a week can have this effect. In Harvie's case, and the supposititious instance alluded to in the Greenwich Railway case, separate occupation prevailed against "ring fence" and "private communication." Premises can therefore be severed by letting out a part for a period exceeding a week (see the Shoreditch and St. Thomas' cases).

These four points, viz. "ring fence," "private communication," "necessity," and "identical occupation," with the corresponding severing factors, are the matters to be considered, to be duly appraised, and to be weighed one against the other. I may now mention various other matters in order to observe that they are mainly irrelevant. Thus, the relation of master and servant will not necessarily have a uniting effect—at least, if a public road and 750 feet intervene, as in Steel's case. I doubt whether if one's mother-in-law lived next door it would make the houses one. Further, it does not matter how many families live in one house (subject to what I have already said), even though it were as well let as the room in Glasgow which had one family in each corner, and one in the middle, and who got

on "Vara weel until Betsy in the middle tuik in lodgers."

Another point which need not be considered is whether the roofs join. The fact that they join will not make two premises one—for instance, the Arcade; the fact that they do not join will not of itself make them two, as we learn from old East. Nor will a single set of premises be held to be two sets simply because the one part, like the hospital gardens, was bought at a different time from the other; or that, in the case of a long leasehold, as in Siegenberg's case, one of the houses was held by the tenant of both on a different lease from the other.

The law leans against dividing up the premises, for it thinks of the rates.

Having decided whether given premises are one or more than one, after weighing their various severing and uniting factors, and giving to each factor its due weight, we are at liberty to say that, if its source is one set of premises, it is not a sewer; but if its source is more than one set of premises, then it is a sewer—that is to say, a sanitary sewer.

We will now test these conclusions with a few problems. In this city stretches a great lead factory—sheds, foreman's house, and many weird forms of building being surrounded by a ring fence. From every test it is one set of premises. But there are other works, less convenient, which the public road divides. If there is a "Bridge of Sighs" across (*j*), then clearly they also are one; but if not, even then the intimate and constant communication between them and their mutual necessity might be held to unite them—"Hands across the sea." But one's office on the quayside, with its scented cedar fittings, and one's bone-manure factory down the river will not be one. Then suppose that in *Doe* v. *Collins* two houses had used the same coal-hole across the road. I cannot think that this would be enough to unite them. To say so would be as bad as the ancient fallacy which ends, "Gin is a spirit, a spirit's a ghost, and a ghost is nothing." The common convenience having to unite two premises would need other elements, such as the "ring fence," or perhaps "private communication" to help it. The almshouses near the Manors are clearly one house. You must, as I say, carefully weigh all the elements of union with all the elements of disunion. I may add, by the way, that the effluent from a sewage farm is a sewer; but then, of course, it takes many, many premises to feed a sewage farm. From the above it will be seen that if I put up a distinct house, as soon as the first drop of my dish-washings trickles into the pipe which is common to my neighbour's drain and mine, that pipe becomes a sewer.

But all this is not true if the conduit does not pass the "destination test." As the Judge said in the recent case of *Meader* v. *West Cowes*, that cannot be a sewer which leads nowhere. In that case, as we see from diagram 7, after the drainage of several houses had flowed by a common pipe into a cesspool it passed over Meader's land through an effluent pipe, and thence trespassed over the land of the owner of the foreshore. Mr. Meader wanted to call it a sewer, and thus set the Council to the unpleasant work of cleaning it out. The unauthorised (*p*) tour over the beach was not considered by the Judge as an outlet at all, and the pipe was treated by the Court as if it had been always corked up at the point where it reached the edge of Meader's land. In cases where the cesspool never has had any effluent channel the rule will on *à fortiori* grounds apply more clearly (*Sutton* v. *Norwich*).

The next and third test is that of form and material. As to form, we gather from the cases that a sewer to be such need not be covered in. There need be no "sound of a hidden brook" such as the poet describes. The conduit, however, must not be a hole like a cesspool, unless it is merely a man-hole. The effluent pipe from a cesspool will, if used for over two sets of premises, unless it trespasses, be a sewer. As to materials, bricks and mortar are not essentials to a sewer, as they are to pastoral work; the sewer may be an iron pipe, or of porcelain, or wood—nay, it may be a mere excavation in soil, like a ditch. As we shall see, it may under certain circumstances be the bed of a natural stream. In any case the source and destination test must be passed.

The fourth test is that of the history and purpose of the sewer. In other words, "Need it have been made by man? and if it was fashioned by man, is the purpose of its originators when they formed it to be considered?" Can it say, like Topsy, "'Specs I growed"? Yes, but the process takes a long time. Thus by 1895 the Dean Burn at South Shields, which, as we learn from Falconar's case, had fallen from its high estate as a natural agricultural stream, and had from 1795 to 1845 seen better days as a feeder for a reservoir, was held to be a sewer, because it had by degrees become a channel for the reception and carrying-away of sewage—that is, of course, the sewage of several (in that case at least twenty) houses. After this the numerous examples of open natural watercourses being held to be sewers will not surprise you. In Wheatcroft's case, as in the above cases, the antiquity of the fouling seems to have been a consideration, and in all cases a preponderant proportion of pollution was necessary.(*q*) In Sutton's case and *Kirkheaton* v. *Ainley*, which confirm this statement, we are not told how long the watercourses had been polluted. In Fordham's case we are told the pollution was ancient. On the other hand, we are told in a local case that the Ouseburn is not a sewer (though I have sometimes thought it seemed rather like one). The reason for this was that the purer water was

in the majority. In Pentney's case a tidal fleet was held not to be a sewer, because in that case previous local and other Acts had forbidden the pollution of tidal fleets. The case, however, is distinguishable, and statutory prohibition could not prevent a stream from becoming a sewer if the fouling were sufficient in duration and quantity. Therefore, to sum up, if a watercourse is to be held to have become a sanitary sewer—by which I mean a foul sewer—a very considerable proportion of it should for a very considerable time have consisted of sewage; but of course this sewage must come from more than one set of premises, and not (say) from some vast hospital. If the watercourse was made by man for clean water the same rules will perhaps not apply (*L.N.W.R. Co.* v. *Runcorn*, [1898] 1 Ch. 34, at 43 bottom, and 44 bottom).

The above are cases of an intention by Nature that the watercourse should be a clean one, and of the overruling of this intention by subsequent pollution. Now we come to the case of a conduit made with the intention of receiving the sewage of more than one house, but which as yet has not received any—being, in fact, a dry conduit. The rule is that if any person or body of persons other than a local authority makes a conduit, it does not become a sewer until it receives the sewage of more than one set of premises. This we may gather from the Beckenham case, decided in 1896—a case which also lays down the law contained in the next sentence. If a local authority makes a conduit, intending it to be a sewer, it becomes a sewer even before it receives any sewage. From this you see that if you want a conduit to be a sewer in its dry condition, you must make the Council the masters of your workmen to that extent, and let them choose which of your workmen they will employ. Again, in addition to this, the Council, in order to be held to be the master of the men, and therefore the maker of the sewer, must have control of the modes and methods of making it.

Next we come to the antiquity test, which we have already perforce considered. How long need a sewer be fouled by a sufficient amount of sewage from more than one set of premises? The answer is that if it was made by Nature, but not, perhaps, if by man with the intention that it should be clean, and has been fouled for a long time, it possibly may have thus become a sewer. Where a person or body of men, not being a local authority, constructs the conduit with fæcal intentions, such a fouling for one moment is enough. Where a local authority makes the sewer, intending it to be a sewer, no such fouling is needed to make it one.

As to the locality test, or the question on whose land the sewer is, *Travis* v. *Uttley* and numerous cases decide the fact that this does not matter.

You next ask as to legality. Need the birth of a sewer be heralded by notices and blessed by sanction? No; into whatever scrapes the first wrongdoer might get for pouring his sewage into it, a conduit, by the simple process of receiving sewage from more than one set of premises, may become a sewer and vest in the authority without their knowledge (*r*)—even so far as to confiscate the pipe or channel of some innocent third party who knew not that the fateful drop of dirty water was trickling in from a second house.

Lastly, we consider who dug the sewers. Well, as we have said, if Nature with her gathered showers dug them patiently through the countless ages, and perhaps if any persons designing a pure watercourse were their authors, we have seen that long and considerable pollution may sewerize. If persons other than local authorities constructed them, whether for foul drains or foul sewers, one moment's pollution by two premises is enough. If a local authority with sewerful intentions laid them, no poilution is necessary.

From all these tests we may gather the following rule for defining a "sewer" for sewage. A sanitary sewer must receive the sewage of more than one set of premises, and must lead somewhere, save only that if it was originally intended by Nature to be a clean watercourse, it must have been fouled long and much; while if a local authority made it, intending it to be a sewer, it needs no sewage to make it such. Perhaps the authority's road drain is a sanitary sewer, but it is not such for the purpose of getting rid of house sewage.

We have thus defined sewers, but have not yet arrived at our goal, for it is not with all sewers that you can connect under section 21, but only with sewers which have vested in the local authority. Under section 13 of the Public Health Act, 1875, "all existing and future sewers within the district of a local authority," with their appurtenances, "shall vest in and be under the control of such local authority." There are three exceptions, and a fourth by way of proviso. With these excepted conduits, you cannot connect under this 21st section.

Sewers which do not vest. Own Profit.—The first exception is "sewers made by any person for his own profit, or by any company for the profit of the shareholders."

Sanitary Non-Vesting.—First of all we will consider the cases as to sanitary sewers. If I cook my own mutton chop I do this for my own "benefit," but not for my "profit"; but if I hire myself out as a cook, I cook for my own profit. This in homely terms is the general principle; but the matter is not quite so simple, for it was said, "Yes, we agree that while the man who built the house and dug the sewer lived in it (that is, of course, in the house) the sewer would be for his "benefit"; but when he went to reside elsewhere, and let his house at a good rent on

account of its excellent sanitary accommodation, this would be "own profit." There were early actions—Bonella's, and that of the Acton Local Board—in which it was decided that a landowner making a sewer to drain his houses is not making a sewer for his own profit; but in the Acton case other houses not belonging to him had connected free of cost.

In *Ferrand* v. *Hallas Land Co.*, decided in 1893, matters were taken further, and it was clearly laid down that even though the drains were solely intended for and solely used by the Land Company's houses, yet they were not sewers made for "profit." There seems to have been in that neighbourhood the usual complaint that houses were like musical chairs, with eleven working-class families to ten houses, and an alarming prospect of a bed beneath the hedge (or in the lock-up). Various luminous remarks issued from the Bench: firstly, the Judge said that houses being at a premium good sewerage could not raise the rent. I cannot help thinking, however, that houses are often at a discount, and that among enlightened people there is no demand for death-traps, even at a low rent. Then as to the argument that if a man did not occupy but let his house, this brought the sewer within the exception, the Judge observed that such a doctrine would exclude most sewers from the operation of the Act, for no man is certain of always occupying or even of always possessing his house.

In Vowles' case, decided in 1895, the matter was brought still further, for here the owner charged the successive purchasers of his houses, in addition to their purchase money, a special fee for connecting with the sewer he had constructed, and yet it was held not to be within the exception.

On the other hand, where Mr. Luttrell, the owner of part of the town of Minehead, had had the enterprise and enlightenment to do what the powers that were had not done, and had made a general system of sewerage both for his own tenants, and, mark you, also for the inhabitants of the town generally, recouping himself by charging them rates for using it, this was held to be within the exception and to be for his own profit, so that the local authority could not step in and hand the bag round for him.

According to the Judge in Ferrand's case, mentioned above, a sewer taken by a man to his sewage farm or manure works will be within the exception.

The burden of proof, as we see from the Acton case, is on the side which asserts "own profit."

Clean Non-Vesting.—Besides these sanitary sewers, there are other sewers—namely, the clean-water sewers; and these, when made by private individuals, are all within the exception. (As a matter of fact they are impliedly excepted from all the sanitary provisions of the Act.) A sewer for bringing water on to land to irrigate it, according to Ferrand's case, or to "irrigate" the cattle, as was decided in *Croysdale* v. *Sunbury* in 1898, is within the exception. This is the fact also as regards sewers for taking water off land. Thus in Sykes's case, decided last year, it was held that surface drains and agricultural drains, and also a drain or sough made by a man to divert flood-water, which came in from a road, so that it should not inundate his quarry, are similarly excepted. Of course, such sewers, if made by the local authority—for instance, to drain their pleasure-park—are sewers, and also belong to them. These, however, not being sanitary sewers, do not vest in them under section 13, for they are beyond the scope of that part of the Act in which the section is found. This is manifest from Sykes's case. One cannot therefore drain into them under section 21.

We see, therefore, that sanitary sewers made to drain the owners' houses (as in diagram 8), whether tenants or purchasers pay for using them or not, are not within the exception. Neither are sewers made for the same purpose and used (as in diagram 8) by strangers free of cost. A sewage "spec" like Luttrell's, where strangers use (as in diagram 8) and also pay, and sewage farmers' plant are within the exception, and accordingly do not vest in the local authority. We see also that all water sewers are either within the exception or beyond the scope of section 13, and therefore do not vest under it. A local authority's own road drains are beyond the scope of section 21—which allows you to empty your drains—but, curiously enough, are not beyond the scope of section 16 as to compulsory access, as we see from *Durrant* v. *Branksome*, 1897.

Land Sewers by Local Act.—The next exception is "sewers made and used for the purpose of draining, preserving, or improving land under any local or private Act of Parliament, or for the purpose of irrigating land." In view of the wideness of the previous exception I need say little as to this. I may simply remark that drainage need not be the primary object of the Act in order to come within the exception. Thus, drains made under a railway company's Act do not vest in the local authority.

Land Sewers by Statutes of Sewers.—The third exception comprises the sewers of the Commissioners of Sewers appointed by the Crown. This body was founded by the Statutes of Sewers of Henry VIII. and Elizabeth, and was established to drain land and to preserve it from inundations and from encroachments by river or sea. Its rights are further protected in a saving clause later on in the Act.

Foreign Sewers.—The proviso which forms the fourth exception protects from confiscation the sewers, for instance, of a neighbouring local authority, which, as provided by the Public Health

Act, brings sewers into another district. The proviso also preserves the rights of transferees of sewers under any past or future statutes. We shall see later what rights you have as to foreign sewers.

We have thus whittled away from our conduits all "drains" as defined by the statutes, all conduits of independent highway authorities, also all water sewers as beyond the scope of part 3, and many watercourses as not being sufficiently polluted. We have also weeded out all private sewage speculations, whether of amateur sanitarians or of sewage farmers or sewage merchants, and all water sewers of individuals or companies, particularly the water sewers of statutory bodies, and of Crown Commissioners for the improvement of land. Finally, unless otherwise agreed, we must except all neighbouring authorities' sewers of any kind, and the sewers of certain statutory interlopers. Another exception I may mention, in case it is not considered to come within the above, is that of small roadside ditches, even if belonging to the local authority. Into all other conduits not thus eliminated section 21 gives you the right to empty your drains, on conditions.

Notes to Lecture 1.

(*a*) A lecture which dealt with building lines was published in the architectural papers about the beginning of February 1900. The references to cases given in the text and notes of this lecture may be useful to the architect's legal adviser. "Authority" throughout this lecture means a district council (urban or rural) or a town or city council, but never a parish or county council. Of course, the advantages which the Public Health Act gives to the drain owner are not always personally enjoyed by the architect; but I treat him as being one with the building owner for the sake of brevity. In perusing this paper the Acts should be referred to. A table of references to all the cases will be published later on.

(*b*) *Sewage.*—It may be noted that of all sewage the foulest and most noxious is soapy water. *Chambers's Encyclopædia* includes under the term "sewage" the washings of slaughter-houses and roads and organic liquid refuse from some manufactories; but see (L ii), a note in the second part of this lecture. Properly deodorised sewage is not "sewage."

(*c*) *Architect's responsibility.*—According to Woodward's case, the architect will be responsible to the authority where a provision enforceable under a "penalty" is contravened by his advice, but not where the breach merely gives the authority power to do the required work for his client, the owner, and charge the latter with the "expenses" of doing it. On the other hand, if a penalty were recovered from the client he could not sue the architect; but if he were mulcted in expenses he might sue if the architect had been negligent.

(*d*) *Does a "drain" need a building?*—According to Fitzgerald (7th edit., 1895, p. 6) the drain must not be merely a drain from land in order to give a right under the Public Health Act (sections 21 and 22) to drain into an authority's sewer. These sections, read in the light of the definition of "drain" and "premises" given in section 4, seem hardly to bear out this statement; but on the authority of Sykes's case we may rule out all *clean* drains from land as being beyond the scope of the sanitary part of the Act. Therefore the drain must be a foul drain from a building, manure heap, or reservoir for polluted liquid if it is to be emptied into the authority's sewer under these sections. ("Premises" under section 4 includes lands and easements. Its primary meaning is such matters as would be included in the parcels of a conveyance—*e.g.* lands and easements. According to all dictionaries, the word in its popular sense includes vacant land. And see note *h*.) (Still less does a sewer require a building; but only sewers for sewage (*b*) are within our purview.)

(*e*) *River pollution.*—The Rivers Pollution Prevention Act is not permissive, and no prescription can avail against it. As regards water-courses which were "not mainly used as sewers" (see end of note *q*) before August 1876, it allows no new drains to pour sewage into them. In the case of old drains which poured sewage into such water-courses before August 1876, you would have, and require to have, two defences if you polluted. "First," you could say, "I have taken the 'best available means' of deodorising the sewage, though I admit it is still sewage. Secondly, as the drain is now (in 1901) twenty-five years old, I have gained a prescription of more than twenty years to commit a nuisance. I can therefore defy both the Act of 1876 and the common law as to private nuisance." You would, however, lose your case if this imperfectly deodorised sewage created a public nuisance—*i.e.* a nuisance to passengers on a highway or to more than four houses. But if you have not merely done your best to deodorise, but have succeeded in purifying your sewage, then, although the stream be a clean stream and your drain quite new, you will be free from liability, for your effluent would be pure water, against which there is no law (see Fitzgerald on *The Rivers Pollution Prevention Act*, edit. 1876). The artificiality of the water-course is no defence, for "stream" includes canals, lakes, &c.; but the Rivers Pollution Prevention Act does not punish the polluter of a dry ditch.

(*f*) *Offensive ditch.*—If the private ditch created a nuisance the person fouling it would be liable. But the authority could not enter on the land to abate the nuisance (*Scarborough* v. *Scarborough*); an order must be obtained (sections 91 (2), 92-6, 99, and 102, "Entry to inspect").

(*g*) *House.*—"House," defined in the previous lecture (see note *a*), includes dwelling-house, warehouse, shop, theatre, office, factory, school, and all premises where a caretaker sleeps, but not a building, such as a consecrated church or a cow-house, which for legal or physical reasons is rendered uninhabitable.

(*h*) A "drain" = "a drain of *and used* for the drainage of one building only or *premises* within the same curtilage, and *made merely for the purpose of communicating* therefrom with a cesspool or other like receptacle for drainage, or with a sewer into which the drainage," &c., &c. (section 4, Public Health Act 1875; the italics are my own).

(*i*) *Map of sewers.*—The Public Health (Support of Sewers) Act 1883, section 3, incorporates the Water Works Clauses Act 1847, including section 19. By the former Act (section 3, sub-section 1) section 19 of the latter Act is to be read as if for the word "undertakers" was substituted "local authority," and as if "pipes, conduits, or other works" referred, *inter alia*, to sewers (see definition of "sanitary work" in the former Act). On reading section 19 thus modified we find (i) that an authority need not, unless it "uses" them, make a plan of the neighbouring authority's immigrant sewers. The builder, therefore, may find it advisable to examine the map of the neighbouring district. (ii) The map is to be shown to "persons interested"—*i.e.* to owners of lands or roads over which a sewer belonging to or used by the authority who have the map is laid or designed. If the building

owner is a frontager he may be a "person interested," for he may own as far as the centre line of the street which runs parallel with his property, and the sewer may be on his half. Under section 20 of the Public Health Act, if an urban authority do keep a map they must show it to ratepayers. Therefore the building owner should either be a "person interested"—*i.e.* an owner of soil beneath a sewer present or future—an urban ratepayer, or should find a friend who possesses one of these attributes.

(*j*) *Bridge of Sighs.*—A subway or a "Bridge of Sighs" between premises divided by a road would give them, I think, both a "ring fence" and "private communication;" but its importance should be duly appraised, for a mere temporary plank would, I think, not have this effect.

(*k*) Harvie's case, 32 *L. T.* 1, where separate occupation also severed. There is a different rule in cases as to building lines (see former lecture and note *a*); but such cases are irrelevant.

(*l*) Marson's case is not an instance of absence of "ring fence," for the public who used the forecourt were customers, not strangers, and the forecourt was periodically closed, so as to prevent public rights from being acquired. Lowther Arcade, on the other hand, though closed at night, was used as a thoroughfare.

(*m*) See also the Shoreditch and other cases. But in *Low* v. *Staines*, 64 *J. P.* 412, in spite of its size, the paddock at the back of the house was held to be part of the latter for the purposes of the Lands Clauses Act.

(*n*) *Occupation by almsmen.*—Almshouses, where rooms are held by freehold for life, may perhaps be considered to be in separate occupations, and therefore severed (see franchise cases and the Grosvenor case). *Occupation by College authorities.*—In spite of the remarks in the text, I think that Whewell's buildings and the rest of Trinity College, Cambridge, would be severed by the intervening public road (see Shoreditch case). Here we have uniting factors 3 and 4, but not 1 and 2. In the Shoreditch case we had all except 2.

(*o*) *Occupation by employer.*—*Smith* v. *Seghill*, 10 Q.B. 422 (a rating case). A lodge gate attached to the lodge will cause the lodge to be in the occupation of the master, if the occupant is required to open the gate. So, also, where part of the factory plant, such as the employers' weaving machine, &c., is in the employee's house.

(*p*) *Meader's case.*—According to this case (1892) the destination must be an authorised destination. Such a doctrine contradicts the law laid down in the "history" and the "legality tests" below, which have ample and more recent authority; and one may humbly expect to see a different decision—at least as regards the influent and effluent pipes—in the next analogous case (see note *r*). It is clear, however, that whatever the influent and effluent pipes may have been, the cesspool itself was not a sewer (*Croft* v. *Rickmansworth*; *Sutton* v. *Norwich*), and, if it vests in the local authority, does so only because the latter have purchased the land and placed it there, and not under section 13. (See also the Tottenham case, 78 *L. T.* (N.S.), 470, and note that the sewage systems of several towns end in tanks.)

(*q*) *Amount of pollution.*—In *R.* v. *Godmanchester* it was held that four houses could not with their sewage make a sewer of a stream; but then we do not know how much sewage they poured in, or the volume of the stream. For the purpose of making a stream a "sewer" under the Public Health Act two sets of premises are a minimum by the definition; but, these once obtained, the question becomes, not the number of houses, but the amount of pollution. I apprehend that a water-course under the Rivers Pollution Prevention Act would be considered to have been mainly used as a sewer even though only one house polluted it, provided the pollution were sufficient.

(*r*) *Legality.*—*V. of St. Leonard*, [1896] 1 Q.B. 533; *Kershaw* v. *Taylor*, [1895] 2 Q.B. 473; *Geen* v. *St. Mary*, [1898] 2 Q.B. 1; *L. and N.W.R. Co.* v. *Runcorn*, [1898] 1 Ch. 41. But, *contra*, see Bateman, [1837] Ch. D. 272.

(*s*) *Who pays for sewer?*—See *R.* v. *Tynemouth*, [1896] 2 Q.B. 219. The authority usually pays for the sewer; but an urban authority, or rural authority which has obtained urban powers under section 276 from the Local Government Board, may, under section 150, force the frontager of a "new street" to sewer his frontage at his own expense, or, under section 277, might, with the sanction of the Local Government Board, declare a set of premises to be part of a special drainage district, excusing him from the general sewage rate. Also, by adopting the Public Health Act Amendment Act of 1890, section 19, an urban or rural council might make the builder of one or two or more houses, owned by *different* persons, pay the expenses of repairing that part of the sewer which drains these houses and is on his land, if it is in an insanitary state. (Such a sewer is in the 1890 Act called a "drain." I shall deal with costs of making sewers under the head of "Duties.") The council cannot throw the burden of making sewers on the building owner by by-laws (*R.* v. *Tynemouth R. C.*, [1896] 2 Q.B. 221, 231).

This note is referred to later on under the head of "How to produce a Sewer," when this summary of the four factors that go to make premises one may with advantage be read again.

(*t*) *Once a sewer, always a sewer.*—That is to say, if it has vested in an authority, and so long as it is used at all. (*Beckenham U.D.C.*, 60 *J. P.* 490; *St. Leonards* v. *Phelan*, [1896] 1 Q.B. 533, 540. But, *contra*, if totally abandoned, *ibid.* p. 538; *Bradford* v. *Eastbourne*, [1896] 2 Q.B. 205, 218; *Rolls* v. *St. George*, 14 Ch. D. 785.)

(*u*) *Producing a sewer.*—The advantages of this method are threefold. You can, in case of "present double sewage," escape section 21, where the sewer vests in your authority, and section 22, where the sewer vests in the adjacent council. You give either of these councils an excuse for compelling access. You save the expense of a longer drain from the house, for it is the duty of the council to continue the conduit after it has become a sewer, and to provide an outfall (but see note *s*).

As to escaping section 21, you must perhaps have leave from the persons over whose land the sewerised conduit pours (Meader's case) in order to make the conduit pass the "destination test." If this condition is fulfilled you need not fear the council, for before you connected there was no sewer to which orders and regulations could apply. But the third house to connect would come under the section.

As to escaping section 22, you would never have to obey any conditions, whether agreed or awarded or adjudged, for you would have never "caused a drain to communicate" with a sewer. When you made the communication the conduit was a "drain." In the case of section 22 the junction of the sewage of the two sets of premises must be in the neighbouring district. The third house in this case also would find the free door closed.

(*To be continued.*)

9, Conduit Street, London, W., *8th June* 1901.

CHRONICLE.

The late John McKean Brydon, *Vice-President.*

The unexpected death of Mr. J. M. Brydon occurred on Saturday, the 25th ult., after a short and painful illness. News had reached the Institute only a day or two before that he was seriously indisposed, but one was ill-prepared for the sad announcement which appeared in the *Times* on the day following the Whitsuntide holiday. Mr. Brydon was in his sixty-first year, and had been a Fellow of the Institute since 1881. He had served for several years on the Council, and had just completed his second year as Vice-President. The funeral took place at Highgate, the Institute being represented by the President, numerous members of the Council and General Body, and the Secretary.

The President, in making the formal announcement to the Meeting last Monday, said that during the last year or so there had been many gloomy announcements to make from that Chair of losses which had befallen the Institute by the death of distinguished and respected members, but he thought there had been none sadder than that which it was his duty to mention that day—viz. the loss of their friend and Vice-President, Mr. John Brydon. When a man died full of years and with his work carried out to completion, one felt that his life had seen a fitting ending; but in the case of Mr. Brydon, and in that of Mr. William Young who died a few months ago, they had made the designs for the largest works they had ever been employed upon, but before they could even lay one stone they had been called away. He would ask that an expression of their sorrowful regret for the loss they had sustained be recorded on the Minutes, and that a letter of sympathy and condolence be forwarded from the Institute to Mrs. Brydon, his widow.

Mr. Aston Webb [*F.*], A.R.A., said he was sure they all felt with the President the gloom and solemnity of the occasion. Death had been very present with them lately. At their last meeting it was Arthur Cates; now it was John McKean Brydon. They might almost use the words of John Bright on a memorable occasion: "The Angel of Death is present amongst us; you can almost hear the beating of his wings." John Brydon, whom they all knew so well, so keen, so alert, so genial, and so kindly, that it seemed almost impossible, even for those who saw him laid to rest the other day, to realise that he would never sit in his accustomed place on those benches again. He was a man of strong opinions, and a man who did not shrink from expressing them strongly; but he also had the feeling of give-and-take which was necessary to the carrying-on of the work of this life, and he never pressed his opinions beyond what he was entitled to do. As an architect he strenuously advocated breadth and simplicity in architecture, and in his work he endeavoured to carry out those principles, and to a great extent succeeded. He (the speaker) had not the privilege of knowing Mr. Brydon as intimately as some of those present, but he knew that when he first came to London his life was not free from struggle. As a man, sorrow and bereavement had fallen to him perhaps somewhat more than to the average man; and when at last he grasped the prize it was pathetic and almost tragic to think that he himself was snatched away leaving the prize to fall to other hands. It made them exclaim with Burke, "What shadows we are, what shadows we pursue." The present was not the time and he (the speaker) was not the man to give a critical notice of his work, or of Brydon as a man, but it was a time for them to express their great regret and sorrow that they should never see him there any more. It was also fitting and right that we should convey, to those dear to him whom he had left behind, our sincerest sympathy and condolences with them in the great loss which they had sustained, which they his brethren had sustained, and which the Royal Institute, which he had served so long, so faithfully, and so well, had sustained. *Requiescat in pace.*

Mr. John Belcher [*F.*], A.R.A., said that the death of Mr. Brydon had come as a great blow to every member of the Institute, not only because they were not acquainted with his illness, and were not aware that he was seriously ill, but because he was one whom they felt they could not afford to lose. He was a most conscientious artist, working always on quiet and safe lines. He hated meretricious ornament, and highly favoured that which was dignified and monumental in their art. In those respects he set a good example to most of them. But especially did he set them a good example in the interest and affection he showed for the Institute, of which he was so staunch a friend. He never lost an opportunity to favour the Institute, and to do what he could to advance its interests. He was also one who assisted greatly the younger members of the profession, both by his interest in their studies, and by his kindly counsel and encourage-

ment. He was, as Mr. Webb had said, a genial companion and a good friend. The members of the Council would long mourn their colleague, who was always so energetic and ready with good and sound advice and practical assistance. There was much more that could be said about his friend Brydon, but their duty that evening was to express their sympathy with his widow and family in their deep sorrow, and the vote which had been moved had his sincerest support.

The vote having been put from the Chair, was passed in silence.

A special memoir of Mr. Brydon is in preparation for this JOURNAL, which owes to him some of its brightest pages, and bears many an evidence of his gifts as an artist, a critic, a speaker, and a writer. One of his latest contributions was the memoir of his friend, Mr. William Young, who shared with him the distinction of being the chosen architect of the great Government buildings at Westminster. Of William Young Mr. Brydon wrote :—"Our profession has lost one of its hardest and most enthusiastic workers, at the moment too when the greatest opportunity of his life was within his grasp. He was, in the highest sense of the word, a self-made man. By his own untiring energy and capacity for work he won for himself a foremost place among the leading architects of the day."* With even greater force, perhaps, do these words apply to the man who wrote them, John McKean Brydon.

THE ANNUAL ELECTIONS.

Scrutineers' Reports.

At the Meeting of Monday, the 3rd inst., the sealed Reports of the Scrutineers appointed to direct the election of the Council, Standing Committees, &c., for the year of office 1901–2 were presented, and the seals having been broken in presence of the Meeting, the Reports were read out by the Secretary, and the candidates reported successful were declared duly elected to the respective offices.

The Council.

The scrutineers of the Council voting lists were Messrs. Hugh Stannus [*F.*] (*Chairman*), Maurice B. Adams [*F.*], A. Burnell Burnell [*F.*], F. de J. Clere [*F.*], Arthur H. Ryan-Tenison [*A.*], and A. Maryon Watson [*A.*]. Their report states that they received 486 papers; that of these they had to reject 10 as informal, and that their examination of the others showed the following results :—

PRESIDENT.—William Emerson [*unopposed*].

VICE-PRESIDENTS.—John Belcher, A.R.A.; the late John McKean Brydon; Thomas Edward Collcutt; John Slater, B.A.Lond. [*unopposed*].

HON. SECRETARY.—Alexander Graham, F.S.A. [*unopposed*].

MEMBERS OF COUNCIL [18].—*Elected*:—Aston Webb, A.R.A., F.S.A., received 417 votes; Ernest George, 407; Henry Thomas Hare, 372; George Frederick Bodley, A.R.A., 371; John Alfred Gotch, F.S.A. (Kettering), 357; Leonard Stokes, 356; Beresford Pite, 352; Edward William Mountford, 348; Richard Phenè Spiers, F.S.A., 343; William Douglas Caröe, M.A., F.S.A., 338; Frank Thomas Baggallay, 337; George Halford Fellowes Prynne, 333; William Milner Fawcett, M.A., F.S.A. (Cambridge), 331; Edward Augustus Gruning, 325; Paul Waterhouse, M.A., 321; Edwin Thomas Hall, 287; George Enoch Grayson (Liverpool), 265; Percival Gordon Smith, 255.

Not elected.—Charles Harrison Townsend, 245 votes; Benjamin Ingelow, 243; George Thomas Hine, 241; Ralph Selden Wornum, 232; Edward Mitchel Gibbs (Sheffield), 213; John William Simpson, 204; Thomas Jerram Bailey, 165.

ASSOCIATE-MEMBERS OF COUNCIL [4].—*Elected*: William Henry Bidlake, M.A. (Birmingham), 361 votes; Robert Shekleton Balfour, 334; James Sivewright Gibson, 283; Henry Vaughan Lanchester, 280.

Not elected.—Arthur Thomas Bolton, 228 votes; John Ernest Newberry, 140; Robert Watson, 118.

REPRESENTATIVES OF ALLIED SOCIETIES [9].—John James Burnet, A.R.S.A. (Glasgow Institute of Architects); Frank Caws (Northern Architectural Association); Charles Henry Channon (York Architectural Society); Arthur Clyne (Aberdeen Society of Architects); Sir Thomas Drew, P.R.H.A. (Royal Institute of the Architects of Ireland); Francis Haslam Oldham (Manchester Society of Architects); Samuel Perkins Pick (Leicester and Leicestershire Society of Architects); Frank William Wills (Bristol Society of Architects); Butler Wilson (Leeds and Yorkshire Architectural Society) [*unopposed*].

REPRESENTATIVE OF THE ARCHITECTURAL ASSOCIATION (LONDON).—William Howard Seth-Smith [*F.*] [*unopposed*].

Auditors.—Walter Hilton Nash [*F.*]; Herbert Arnold Satchell [*A.*] [*unopposed*].

The Four Standing Committees.

The scrutineers of the Standing Committee voting lists—Messrs. Francis Hooper [*F.*], Herbert G. Ibberson [*F.*], Richd. M. Roe [*F.*], E. Arden Minty [*F.*], Edm. J. Bennett [*A.*], C. H. Brodie [*A.*], Arch. C. Dickie [*A.*], and W. Wonnacott [*A.*]—report that the total number of papers delivered to them was 463, that a certain number (indicated below) were rejected for informality, and that the voting was as follows :—

ART COMMITTEE.

Twenty-one papers were invalid, leaving 442 valid.

Fellows (10).—*Elected*: Thomas Edward Collcutt, 373 votes; George Frederick Bodley, A.R.A., F.S.A., 361; Alfred Waterhouse, R.A., LL.D., 350; Henry Thomas Hare, 336; Edward William Mountford, 329; John Macvicar Anderson, F.R.S.E., 310; Arthur Conran Blomfield, M.A., 308; William Douglas Caröe, M.A., F.S.A., 296; George Halford Fellowes Prynne, 282; James Brooks, 255.

Not elected: Henry Heathcote Statham, 217 votes; John William Simpson, 181; William Flockhart, 170.

Associates (6).—*Elected*: Andrew Noble Prentice, 346 votes; Robert Shekleton Balfour, 343; James Sivewright Gibson, 335; Arthur Thomas Bolton, 307; Henry Vaughan Lanchester, 302; William Henry Romaine-Walker, 263.

Not elected: Hubert Springford East, 254 votes; Robert Watson, 203.

LITERATURE COMMITTEE.

Seventeen papers were invalid, leaving 446 valid.

Fellows (10).—*Elected*: William Alfred Pite, 408 votes; Richard Phenè Spiers, F.S.A., 396; Paul Waterhouse, M.A., 390; Alexander Graham, F.S.A., 379; John Bilson,

* JOURNAL, present volume, p. 44.

F.S.A., 375; Charles Harrison Townsend, 364; Benjamin Ingelow, 351; Henry Heathcote Statham, 351; George Halford Fellowes Prynne, 350; Francis Hooper, 348.

Not elected: John Hebb, 282 votes.

Associates (6).—*Elected*: Leslie Waterhouse, M.A., 341 votes; Arthur Smyth Flower, M.A., F.S.A., 333; Professor Ravenscroft Elsey Smith, 289; Percy Scott Worthington, M.A., 275; Arthur Maryon Watson, B.A., 272; Andrew Noble Prentice, 236.

Not elected: John Humphreys Jones, B.A., 213 votes; Hubert Christian Corlette, 167; William Adam Forsyth, 148; Edward William Hudson, 129; Thomas Geoffry Lucas, 122.

PRACTICE COMMITTEE.

Fourteen papers were invalid, leaving 449 valid.

Fellows (10).—*Elected*: Edward Blakeway I'Anson, M.A., 399 votes; Samuel Flint Clarkson, 385; Joseph Douglass Mathews, 381; Edmund Woodthorpe, M.A., 367; Walter Hilton Nash, 358; Thomas Batterbury, 355; George Hubbard, 349; James Osborne Smith, 324; Alexander Henry Kersey, 308; Lewis Solomon, 291.

Not elected: Frederick Ernest Eales, 287 votes; Richard Mauleverer Roe, 247.

Associates (6).—*Elected*: Charles Henry Brodie, 328 votes; Max Clarke, 315; William H. Atkin-Berry, 309; Augustus William Tanner, 301; William Henry White, 296; Herbert Hardwicke Langston, 228.

Not elected: Edwin Richard Hewitt, 220 votes; Edward Greenop, 186; Sydney Perks, 183; Herbert Alexander Pelly, 122.

SCIENCE COMMITTEE.

Sixteen papers were invalid, leaving 447 valid.

Fellows (10).—*Elected*: Thomas Blashill, 395 votes; Lewis Angell, 378; Herbert Duncan Searles-Wood, 377; Edmund Woodthorpe, M.A., 363; Percival Gordon Smith, 360; William Charles Street, 341; Alfred Saxon Snell, 328; William Edward Riley, 324; Keith Downes Young, 324; Benjamin Tabberer, 318.

Not elected: Frederic Hammond, 277 votes; Lewis Solomon, 273.

Associates (6).—*Elected*: Max Clarke, 346 votes; Bernard John Dicksee, 339; James Sivewright Gibson, 331; Henry William Burrows, 303; George Pearson, 302; Sydney Benjamin Beale, 283.

Not elected: Arthur Charles Bulmer Booth, 267 votes; Herbert Arnold Satchell, 267.

A vote of thanks to the Scrutineers for their labours in connection with the Elections was passed by acclamation.

It should be noted that the elections above recorded were the first held under the By-laws as altered at the Meeting held for the purpose in March last year, and sanctioned by the Privy Council two months later.* The Associate-Members of Council now number *four* instead of *two* as formerly. It is not now necessary that candidates for Associate-Membership of the Council should have been in independent practice for at least three years; any duly nominated Associate is eligible to serve if elected. Another change was the omission from the balloting papers of the asterisk which under the old By-law was prefixed to names of members of the existing Council and Standing Committees.

* JOURNAL, Vol. VII. 198, 208, 409.

The National Memorial to Queen Victoria.

At the General Meeting last Monday, in answer to an inquiry of Mr. Wm. Woodward [*A.*] as to whether any reply had been received to the Resolution sent to Lord Esher with reference to the National Memorial to Queen Victoria, the Secretary said that Lord Esher had formally acknowledged receipt of the Resolution, and stated that it would be laid before the Executive Committee when they next met. The President, in reply to a further question, said that the Committee had not met since the Resolution was forwarded. Shortly after it was sent, however, he had seen Lord Esher and been informed by him that the Committee would have to meet again shortly, and the Resolution would be laid before them, but his Lordship was unable to give the date. Some time after, as he (the President) was leaving town, he had another interview with Lord Esher, and inquired when the meeting was likely to take place, so that he might arrange his return in time to attend it. Lord Esher replied that the date had not yet been fixed, but that he (the President) would probably have ten days' notice of it.

Special Election to Fellowship.

The Council, at their meeting on the 20th ult., elected the following gentleman to the Fellowship of the Royal Institute under the proviso to By-law 9, viz.:—

GEORGE THOMAS, of Queen's Chambers, Cardiff, President of the Cardiff, South Wales, and Monmouthshire Architects' Society, allied to the Royal Institute.

Presentation to Sir Thomas Drew.

The members of the Royal Institute of the Architects of Ireland recently entertained their President, Sir Thomas Drew, R.H.A. [*F.*], at a dinner at the Central Hotel, Dublin, and presented him with a gilt silver cup and cover bearing the following inscription:—"From the Members of the Royal Institute of the Architects of Ireland to their President, Sir Thomas Drew, as a mark of affectionate esteem on his receiving the honour of Knighthood, Anno Domini 1900." The cup is a copy of one made in the reign of Charles II., the original being in the possession of the Grocers' Company, and known as the "John Saunders Cup," after the donor. The form and outline of the cup are of great beauty, the bowl being supported on a bold baluster stem resting on a well-proportioned foot, the whole being chased in bold *repoussé* work, and richly gilt. In the inside of the cup is a crown piece of the date of Sir Thomas's knighthood; in the foot a similar piece showing the effigy of Her late Majesty Queen Victoria. The cup also embodies a "Master Apostle's" spoon of the sixteenth century, presented to Sir Thomas at his birth; and set in the face of the cup is a medal of the

Institute of the Architects of Ireland, won by Sir Thomas in his student days.

The late Ebenezer Gregg [*F.*].

The following particulars of the career of the late Mr. Gregg have been kindly supplied by his son, Mr. Theodore Gregg, *Student R.I.B.A.* :—

Leaving school at the early age of thirteen, Ebenezer Gregg entered the office of the late Mr. Sabine, architect, of Old Broad Street, where, before he attained the age of seventeen, he was appointed manager, which post he retained until 1868, when he commenced practice at 1A St. Helen's Place. He quickly established a large and influential connection, and was elected a Fellow of the Royal Institute of British Architects in 1870. At the time of his death he had been for many years an Examiner in the "Professional Practice" and "Specifications" subjects of the Institute Examinations. While his practice was chiefly of a domestic character, he was an architect of wide scope. Among his principal works may be mentioned: Dr. Barnardo's Village Home at Ilford; officers' quarters, ice-house, and offices of the Royal Mail Steam Packet Company, both at London and Southampton; Moody and Sankey's temporary mission-hall, to seat 10,000, erected in six weeks; the Banks of New Zealand, Adelaide, and New South Wales, and the premises 71 and 72 Piccadilly, 141 and 142 Fenchurch Street, and 24 Austin Friars. For many years he had acted as surveyor to Jesus College, Cambridge. He was London Architect for the Exploration Company's building in Johannesburg. His death at the age of sixty-eight will be deeply regretted, especially by students, for whom he always had a helping hand.

LEGAL.

Architects' Fees.

WEST *v.* BARCLAY.

This was an action by an architect to recover £295, the balance of fees alleged to be due to him from the defendant. The case was heard by Mr. Justice Kennedy, on 14th May, without a jury, and reported in *The Times* of the 15th.

The plaintiff, an architect practising in Maddon Street, was employed by the defendant to carry out certain improvements at Gaddesby Hall, in Leicestershire. These improvements had cost the sum of £14,349, and the question to be decided was what was a fair remuneration to be paid to the architect in the circumstances of the case. The dispute was whether the plaintiff was to be limited to the ordinary 5 per cent. upon the total usually charged, or whether he was entitled to an extra 5 per cent. The plaintiff's claim was that he was entitled to 10 per cent., on the ground that he had an agreement with the defendant by which he was to keep and pass the accounts, and to act as builder and contractor as well as architect, and the value of these additional services he put at 5 per cent. The defendant admitted that there was such an agreement, but alleged that 5 per cent. was sufficient to cover the plaintiff's services in every respect.

Two architects of long standing gave evidence for the defendant that the plaintiff's services would be fairly remunerated at 5 per cent. on the total outlay.

Mr. Justice Kennedy, in giving judgment, said that the question to be decided was the fair amount of remuneration that should be paid to the plaintiff, and pointed out the undesirability of leaving large business relations upon an unsettled basis. Although he thought that the plaintiff's claim for 10 per cent. on the whole amount was clearly untenable, yet he considered that the plaintiff had done more than an architect would have done under the 5 per cent. scale, and that he was entitled to something beyond that. The learned Judge finally held the plaintiff to be entitled to remuneration at the rate of 7½ per cent. on the amount after certain items had been deducted; and as the result of the state of the accounts between the parties, he gave judgment for the defendant, with costs.

MINUTES. XIV.

At the Fourteenth General Meeting (Business) of the Session 1900–1901, held Monday, 3rd June 1901, at 8 p.m., the President, Mr. Wm. Emerson, in the Chair, with 14 Fellows (including 11 members of the Council) and 9 Associates (including 1 member of the Council), the Minutes of the Meeting held 20th May 1901 [p. 357 *ante*] were taken as read and signed as correct.

The death of Mr. John McKean Brydon, *Vice-President*, having been formally announced, feeling references thereto were made by the President and by Messrs. Aston Webb, A.R.A., and John Belcher, A.R.A. Whereupon, on the motion of the President, it was

> RESOLVED, that the Institute desires to express its profound sorrow at the untimely demise of its most esteemed and distinguished Vice-President, Mr. John McKean Brydon, and at the loss the Institute and Architecture have sustained thereby; and that a message of the Institute's sympathy and condolence with them in their bereavement be forwarded to his widow and family.

The decease was also announced of William Jeffrey Hopkins, of Worcester, *Fellow*, elected 1861; and the Conde de San Januario, President of the Royal Association of Portuguese Architects, *Hon. Corresponding Member*, Lisbon.

The Secretary having read the reports of the Scrutineers appointed to direct the election of the Council and Standing Committees for the year of office 1901-2, the candidates reported successful were thereupon declared to be duly elected to the respective offices.

On the motion of the President, a vote of thanks to the Scrutineers was passed by acclamation.

The following candidates for membership were elected by show of hands under By-law 9, viz.:—

AS FELLOWS (4).

JOSEPH COMPTON HALL.
HARRY BELL MEASURES.
ELLIS HERBERT PRITCHETT, F.S.I. (Swindon, Wilts).
NATHANIEL YOUNG ARMSTRONG WALES (Dunedin, New Zealand).

AS ASSOCIATE.

JAMES ANDREW MINTY [*Qualified* 1885].

AS HON. CORR. MEMBER.

SAINTE-MARIE PERRIN (Lyons).

The Secretary, in reply to Mr. Wm. Woodward [*A.*], stated that Lord Esher, in acknowledging the Resolution sent to him with reference to the Queen Victoria Memorial, had stated that the Resolution would be laid before the Executive Committee at their next meeting. The President, in reply to a further question, stated that, as far as he was aware, the Executive Committee of the Memorial Scheme had not as yet fixed a date for the meeting.

The proceedings then closed, and the meeting separated at 8.45 p.m.